

REMARKS

Claims 1-6 and 9-31 are pending. By this Amendment, claims 1, 6, 9, 10, 12, 13, 16, 18-22, 24-27, 29, and 30 are amended and claims 7 and 8 are cancelled without prejudice to or disclaimer of the subject matter contained therein.

The Office Action makes final the Restriction Requirement set forth in the March 26, 2003 Office Action (paper No. 10). The Restriction Requirement is respectfully traversed.

Initially, Applicants would like to point out that claim 31 recites a fuel tank rather than a method of manufacturing a fuel tank. Therefore, claim 31 should be included with elected Group I. As a result, Applicants respectfully request that claim 31 be considered with claims 1-26.

The Patent Office has not met its burden under MPEP §806.05(f), in that the Patent Office has failed to show that inventions I and II are distinct. Particularly, the Patent Office has failed to provide an alternative method for assembling the fuel tank of claims 1-26. The method proposed by the March 26, 2003 Restriction Requirement, i.e., assembling a fuel tank with a fastener other than a snap-fastener is not distinct from the method claimed in claims 27-30. On the contrary, the alternative method proposed by the March 13, 2003 Restriction Requirement is clearly anticipated by the method recited in claim 27.

The March 26, 2003 Restriction Requirement alleges that the fuel tank of claim 1 could be assembled by a feature other than "snap fastening." However, the method of claims 27-30 is not limited to "snap-fastening" or any type of fastening. The method of claims 27-30 merely recites "assembling the tank portions." Therefore, the alleged step of assembly by a method other than snap-fastening is clearly anticipated by the claimed step of "assembling the tank portions." As a result, the proposed alternative method of the March 26 Restriction Requirement is not materially different from the method for manufacturing a fuel tank of claims 27-30.

As the Examiner has failed to suggest a process materially different than that of claims 27-31 for assembling the device of claims 1-26, the Restriction Requirement must be withdrawn (MPEP 806.05(f)).¹

The Office rejects claims 1-25 under 35 U.S.C. §102(e) over U.S. Patent 6,216,734 to Umetsu et al. (hereinafter "Umetsu"). The rejection is respectfully traversed.

Umetsu does not disclose a fuel tank comprising an exterior shell formed by at least two tank portions assembled together, as recited in claim 1. Initially, it should be noted that Umetsu only describes a substructure (subtank 2) for insulation within a fuel tank (col. 2, lines 27-34). As such, Umetsu fails to disclose the particular features of a fuel tank. Furthermore, even if subtank 2 could be considered a fuel tank, Umetsu does not disclose how the subtank 2 is formed or assembled. As a result, Umetsu thus fails to disclose a fuel tank that is formed by at least two tank portions assembled together.

Furthermore, Umetsu does not disclose a fuel pump that is located entirely within the shell of the fuel tank, as recited in claim 1. It is clear from Figure 1 in Umetsu that at least part of the fuel pump 1 extends above parallel sidewalls 21 and 22 of the subtank 2. Therefore, a portion of the fuel pump 1 is located outside the shell of the subtank.

Because Umetsu does not disclose all of the features of claim 1, claim 1 is patentable over Umetsu under 35 U.S.C. §102(e). Therefore, Applicants respectfully request that the rejection be withdrawn.

The Office Action rejects claims 1-26 under 35 U.S.C. §102(b) over U.S. Patent 5,186,200 to Kimura et al. (hereinafter "Kimura"). The rejection is respectfully traversed.

Kimura does not disclose the structure of a fuel tank either. Rather, Kimura discloses "a rotary tank system to be provided inside a fuel tank for vehicles" (Abstract, emphasis

¹ "If applicant convincingly traverses the requirement, the burden shifts to the examiner to document a viable alternative process or product, or withdraw the requirement."

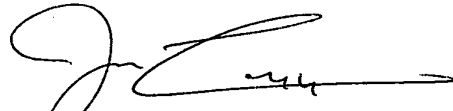
added). It is well known in the art that a rotary tank system, while using the word "tank," is not a fuel tank, as the term is used with respect to the claimed invention, but rather a device that assures suctioning of the fuel by a pipe even when the surface level of the fuel inside a fuel tank is slanted due to centrifugal force (col. 1, line 5-30). Kimura does not disclose any of the features of the fuel tank within which the disclosed rotary tank is provided.

Because Kimura does not disclose a fuel tank, as described by claim 1, claim 1 is patentable over Kimura under 35 U.S.C. §102(b). Therefore, Applicants respectfully request that the rejection be withdrawn.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-6 and 9-31 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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